

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri B.Ramanjulu Naik S/o Bukke Badde Naik alias Venkata naik, Conductor, APSRTC., Rayachoti, Kadapa filed under Section 7 (2) of Act 16 of 1993 against the Proceedings dated 20.10.2006 of the District Collector, Kadapa – Appeal Rejected – Orders – Issued.

SOCIAL WELFARE (CV.2) DEPARTMENT

G.O.Ms.No. 197

Dated:01-11-2008
Read the following:-

1. Proceedings of the Collector, Kadapa District R.Dis.C5/437/M/ 2002, dated 20.10.2005.
2. Appeal Petition filed by Sri B.Ramanjulu Naik S/o Bukke Badde Naik alias Venkata Naik, Conductor, APSRTC., Rayachoti, Kadapa dated 24.1.2006.
3. Govt.Memo No. 889/CV.2/2006-1, dated 3.2.2006.
4. Letter from the District Collector, Kadapa, Ref No.C5/261/M/2006, dated 24.11.2006.
5. Govt.Memo No.889/CV.2/2006-4, dated 22.7.2008.

ORDER:

Sri B.Ramanjulu Naik S/o Bukke Badde Naik alias Venkata Naik, Conductor, APSRTC., Rayachoti, has filed appeal petition before Govt. against the Proceedings dated 20.10.2005 issued by the District Collector, Kurnool, on cancellation of his ST Sugali caste certificate, and submitted the following grounds:

1. The order passed by the learned District Collector is contrary to law, weight of evidence and probabilities of the case.
2. The enquiry conducted by the DLSC. is behind the back of the appellant. The appellant was not permitted to cross examine any witnesses and no documents were given to the appellant, and not permitted to engage advocate to represent his case.
3. The District Collector, ought to have seen right from the beginning the appellant lived with his adoptive parents and lived in Sugali Thanda and continued his studies in ST Boys Hostels, Kadapa.
4. The enquiry of MRO., Chakayapet clearly disclosed that since from the childhood the appellant lived with his adoptive parents in Kallurupalli Thanda.
5. The Collector failed to furnish preliminary enquiry report of the DLSC. and no opportunity was given.
6. The Collector, out to have seen that on adoption, the adoptive ipso facto acquires caste of adoptive parents as per the Judgment reported in AIR 1980 DELHI, Kazar Singh Vs Union of Indian and others.

2) The Govt. vide Memo 3rd read above, has requested the District Collector, Kadapa, to furnish parawise remarks and connected records on the appeal petition filed by the appellant. The Collector, Kadapa, vide reference 4th read above has furnished the same.

3). The case was posted for personal hearing on 27.3.2008. The appellant and his counsel were absent. The case was again posted for personal hearing before appellate authority on 30.6.2008. On 30.6.2008, the appellant was absent and his counsel was present and again requested for adjournment. Finally, the case was posted on 4.8.2008 at 5.00 p.m. The counsel was present, and argued the case, but the appellant was absent.

4). On careful examination of the facts of the case, grounds for appeal, orders of the District Collector, Kadapa, and parawise remarks of the Collector, Kadapa on the grounds for appeal, enquiry reports, evidences adduced by the appellant and other material on file, it is found that :

1. The appellant is claiming ST status based on his adoption by the adoptive parents who belongs to ST Sugali community, though he is the biological child of parents belonging to Mangali (BC) Caste.
2. Section 2 (2) of the Hindu Adoption and Maintenance Act 1956 states that no notwithstanding any thing contained in sub section (1) nothing contained in this Act, shall apply to the members of any Scheduled Tribe within the meaning of clause (25) of Article 366 of the Constitution, unless the Central Govt., by notification the official gazette, otherwise directs.
3. As such the adoption of the appellant who by birth belongs to Mangali Caste which is not a ST community, is invalid and he is not eligible for claiming ST status. The legal position beings so, there is no need to consider the claims of the appellant that he was brought up by the adopting ST parents, he stayed in ST Hostel, etc.,
4. When the appellant adoption by tribal parents is invalid as per the Act, there is no need to consider the judgment reported in AIR 1980, Delhi as contended by the appellant that on adoption, the adoptive ipso-facto acquires the case of adoptive parents.
5. Other grounds for appeal that the enquiry by the DLSC. was behind his back, no reports were given to him and he was not permitted to engage an Advocate are not tenable/sustainable, because the appellant was given ample opportunity through services of Notices, he appeared before the DLSC. and submitted his explanation, copies of School records etc. But he never requested /demanded for permission to engage an Advocate or to cross examine witnesses for furnishing copies of any reports etc.,
6. In view of the above there is no illegal action on the part of the respondents in holding that the ST status claim viz-a-viz ST. Community certificate of the appellant are false and consequently canceling his caste certificate.

5) In view of the above facts, and in exercise of the powers conferred under Section 7(2) of Act 16 of 1993, under Rules made there under as per G.O.Ms.No.58, SW (J) Department, dated 12.5.1997, the appeal petition filed by Sri B.Ramanjulu Naik S/o Bukke Badde Naik is here by rejected, upholding the Proceedings of the District Collector, Kadapa, R.Dis C5/437/M/2002, dated 20.12.2005. The stay granted in reference 3rd read above, is hereby vacated.

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6) The records received from the District Collector, Kadapa, through the reference 4th read above, are return herewith in original to him, and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K. TIGIDI,
PRINCIPAL SECRETARY TO GOVT.

To
The District Collector,
Kadapa District (WE).Original records file bearing No.
R.Dis.C5/437/M/2002, containing pages CF 223 and Nf.20.

Sri B.Ramanjulu Naik S/o Bukke Badde Naik
alias Venkata Naik,
Conductor, APSRTC., Rayachoti, Kadapa District.

M/s. G.Vijaya Kumar, Advocate,
Flat No.201, 2nd Floor, Siri's Sravani Residency,
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Hyderabad 500 028.

Copy to:
The PS to M(TW &RIAD) / PS to Prl.Secretary (TW)
The Regional Manager,APSRTC., Kadapa Region,
Kadapa District.
The Director of Tribal Welfare, Hyderabad.
Sf/Sc.

//Forwarded::By Order//

SECTION OFFICER.